

view of the AAO, precluded approval of the I-800 in that case.⁷⁰

Petitioners for a Convention visa also must show in their application that they have not yet adopted the child or received custody (a guardianship order) for purposes of emigration and adoption prior to receiving provisional approval of their I-800. However, this restriction will not apply if, before the petitioners file the Form I-800, a competent authority in the country of the child's habitual residence voids, vacates, annuls, or terminates the adoption or grant of custody; and then, after the provisional approval of the Form I-800 and after receipt of notice from the U.S. Central Authority that the child is, or will be, authorized to enter and reside permanently in the United States, permits a new grant of adoption or custody. 8 C.F.R. § 309(b)(1).

5. Process Following Submission of I-800

Although the time line is different, Convention visa petitioners, like orphan visa petitioners, may confront a roadblock if too much time passes between approval of their suitability (I-800A) and filing of their petition for a visa (I-800). An I-800A notice of approval expires fifteen months after the date on which the UCIS received the FBI report on the first person printed (one of the prospective adopters or their adult household members, all of whom must be fingerprinted before I-800 can be approved). Petitioners who have not received a placement in time to file their I-800 within that fifteen-month period must seek an extension for their approval notice, which requires re-fingerprinting and an amended or updated home study. 8 C.F.R. § 204.312(e). The Form I-800 Supplement 3 requesting the extension must be filed no earlier than 90 days before the expiration of the I-600A, but before the approval expires. There is no fee for filing the first Form I-800 Supplement 3, but subsequent requests for additional fifteen month extensions require a fee.⁷¹

After USCIS reviews a Form I-800 and accompanying documentation, if it is determined that the child qualifies as a Convention adoptee the USCIS will then provisionally approve the I-800 and notify the Department of State. The prospective adoptive parents are then instructed that their case has been assigned to a U.S. Embassy or Consulate abroad. An investigation, similar to that described above for orphan visas, may be undertaken in either this provisional review of the I-800 or in the final adjudication, if specific facts suggest to an officer that it is warranted, but it is not required in Convention adoptions. 8 U.S.C. § 204.313(f)(g).

Following receipt of notice of provisional approval, prospective adopters then submit an immigrant visa application, Form DS-260, to the embassy or consulate responsible for processing these applications for the country of origin. If the consular officer determines that the child

⁷⁰ See *supra* note 62

⁷¹ USCIS, *Extension and Validity Periods*, at <https://www.uscis.gov/adoption/after-approval/extension-and-validity-periods>.